

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEMOND HARRIS,

Petitioner,

v.

CASE NO. 07-13034

JOHN PRELESNIK,

HONORABLE STEPHEN J. MURPHY, III

Respondent.

ORDER GRANTING APPOINTMENT OF COUNSEL

Pending before the Court are Demond Harris's *pro se* application for the writ of habeas corpus under 28 U.S.C. § 2254 and his motion to hold the habeas petition in abeyance. The habeas petition challenges Harris's state convictions for assault with intent to do great bodily harm less than murder, armed robbery, and possession of a firearm during the commission of a felony. Harris claims that his trial attorney provided ineffective assistance by failing to produce certain witnesses at trial and by failing to show that the complaining witness had recently been arrested.

Harris previously moved for appointment of counsel and for an evidentiary hearing. On January 16, 2009, the Court denied Harris's motions and directed the respondent to file the transcript of trial. Harris subsequently moved to hold this case in abeyance so that he could pursue additional state court remedies for a new claim, which alleges that mental illness prevented him from assisting his attorney in presenting an alibi or insanity defense. In a letter to the Court filed on October 6, 2009, Harris also asserts that he has discovered

new evidence indicating that his state sentencing guidelines were incorrectly scored.

Appointment of counsel in a civil case is discretionary with the District Court, *Reneer v. Sewell*, 975 F.2d 258, 261 (6th Cir. 1992), and, having reviewed the pleadings, pending motion, and state record, the Court believes that the interests of justice require appointment of counsel. See 18 U.S.C. § 3006A(a)(2)(B). Accordingly, the Court **VACATES** the portion of its prior order that denied appointment of counsel [dkt. #16] and hereby **GRANTS** Harris's motion for appointment of counsel [dkt. #12]. Counsel shall consult with Harris and inform the Court within thirty days as to how they wish to proceed.

s/Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: November 6, 2009

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on November 6, 2009, by electronic and/or ordinary mail.

s/Alissa Greer
Case Manager